

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

13-M-108-HKS

UNITED STATES OF AMERICA,

v.

NOTICE OF MOTION

SALVATORE TANTILLO,

Defendant.

MOTION BY:

John Humann, Senior Litigator.

DATE, TIME & PLACE:

Before the Honorable Jeremiah J. McCarthy, United States Magistrate Judge, United States Courthouse, 2 Niagara Square, Buffalo, New York, **on July 26, 2013 at 11 AM.**

SUPPORTING PAPERS:

Affirmation of John Humann, dated July 25, 2013.

RELIEF REQUESTED:

Release of defendant with electronic monitoring.

DATED:

Buffalo, New York, July 25, 2013.

/s/ John Humann

John Humann

Senior Litigator

Federal Public Defender's Office

300 Pearl Street, Suite 200

Buffalo, New York 14202

(716) 551-3341, (716) 551-3346 (Fax)

john_humann@fd.org.

Attorney for Defendant Salvatore Tantillo

TO: Marie P. Grisanti
Assistant United States Attorney

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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v.

AFFIRMATION

SALVATORE TANTILLO,

Defendant.

JOHN HUMANN, affirms under penalty of perjury that:

1. I was assigned to represent Mr. Tantillo on Friday, July 19, 2013.
2. Mr. Tantillo is charged in a variety of different ways, but basically, it is alleged that he had sex with a 16-year-old and took some pictures of her.
3. The facts could support a production of child pornography charge which would carry a 15 year minimum. That is the most serious of the charges.
4. Mr. Tantillo cooperated fully with the government.
5. Mr. Tantillo supports his girlfriend and his three-month-old baby. He has been steadily employed at the same company for the past seven and a half years.

6. The parties first appeared before Magistrate Judge Schroeder. On the matter of pretrial release, Judge Schroeder seemed as if he was going to grant the defense's request that Tantillo be released to the custody of his father with an ankle bracelet that would allow him to continue to work and support his family. The government then represented that it was continuing its investigation and asked the Court to wait until the government had fully explored that investigation, which was expected to be completed by July 25, 2013. Judge Schroeder gave the government until July 25, 2013, to complete the investigation.

7. Counsel has been informed by the government that there are no photographs of prepubescent children on the defendant's phone, nor do they have any proof that he had sex with another young woman who was under 18 years of age. In other words, the further investigation has not produced any new proof against the defendant.

WHEREFORE, it is respectfully requested that the Court release the defendant with an ankle monitor that would keep him home except to go to work, or for other emergencies. The defendant would stay with his father.

DATED: Buffalo, New York, July 25, 2013.

Respectfully submitted,

/s/John Humann

John Humann

Senior Litigator

Federal Public Defender's Office

300 Pearl Street, Suite 200

Buffalo, New York 14202

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Counsel for Defendant Salvatore Tantillo

To: Marie P. Grisanti
Assistant United States Attorney

Jaclyn S. Sainsbury
United States Probation Officer

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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13-M-108-HKS

SALVATORE TANTILLO,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on **July 25, 2013**, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

1. Marie P. Grisanti
Assistant United States Attorney
Western District of New York
138 Delaware Avenue, Federal Centre
Buffalo, New York 14202

And, I hereby certify that I have e-mailed the document to the following non-CM/ECF participant(s).

2. Jaclyn S. Sainsbury
United States Probation Officer
U.S. Probation Department
U.S. Courthouse
2 Niagara Square
Buffalo, New York 14202

/s/ Joanne Sabatino

Joanne Sabatino, Legal Secretary
Federal Public Defender's Office